

is informed of the right to terminate the test at any time.

(3) Actual testing phase

During the actual testing phase, the examiner does not ask such examinee any question relevant during the test that was not presented in writing for review to such examinee before the test.

(4) Post-test phase

Before any adverse employment action, the employer shall—

(A) further interview the examinee on the basis of the results of the test; and

(B) provide the examinee with—

(i) a written copy of any opinion or conclusion rendered as a result of the test, and

(ii) a copy of the questions asked during the test along with the corresponding charted responses.

(5) Maximum number and minimum duration of tests

The examiner shall not conduct and complete more than five polygraph tests on a calendar day on which the test is given, and shall not conduct any such test for less than a 90-minute duration.

(c) Qualifications and requirements of examiners

The exemptions provided under subsections (d), (e), and (f) of section 2006 of this title shall not apply unless the individual who conducts the polygraph test satisfies the requirements under the following paragraphs:

(1) Qualifications

The examiner—

(A) has a valid and current license granted by licensing and regulatory authorities in the State in which the test is to be conducted, if so required by the State; and

(B) maintains a minimum of a \$50,000 bond or an equivalent amount of professional liability coverage.

(2) Requirements

The examiner—

(A) renders any opinion or conclusion regarding the test—

(i) in writing and solely on the basis of an analysis of polygraph test charts,

(ii) that does not contain information other than admissions, information, case facts, and interpretation of the charts relevant to the purpose and stated objectives of the test, and

(iii) that does not include any recommendation concerning the employment of the examinee; and

(B) maintains all opinions, reports, charts, written questions, lists, and other records relating to the test for a minimum period of 3 years after administration of the test.

(Pub. L. 100-347, § 8, June 27, 1988, 102 Stat. 650.)

§ 2008. Disclosure of information

(a) In general

A person, other than the examinee, may not disclose information obtained during a polygraph test, except as provided in this section.

(b) Permitted disclosures

A polygraph examiner may disclose information acquired from a polygraph test only to—

(1) the examinee or any other person specifically designated in writing by the examinee;

(2) the employer that requested the test; or

(3) any court, governmental agency, arbitrator, or mediator, in accordance with due process of law, pursuant to an order from a court of competent jurisdiction.

(c) Disclosure by employer

An employer (other than an employer described in subsection (a), (b), or (c) of section 2006 of this title) for whom a polygraph test is conducted may disclose information from the test only to—

(1) a person in accordance with subsection (b) of this section; or

(2) a governmental agency, but only insofar as the disclosed information is an admission of criminal conduct.

(Pub. L. 100-347, § 9, June 27, 1988, 102 Stat. 652.)

§ 2009. Effect on other law and agreements

Except as provided in subsections (a), (b), and (c) of section 2006 of this title, this chapter shall not preempt any provision of any State or local law or of any negotiated collective bargaining agreement that prohibits lie detector tests or is more restrictive with respect to lie detector tests than any provision of this chapter.

(Pub. L. 100-347, § 10, June 27, 1988, 102 Stat. 653.)

CHAPTER 23—WORKER ADJUSTMENT AND RETRAINING NOTIFICATION

Sec.	
2101.	Definitions; exclusions from definition of loss of employment.
2102.	Notice required before plant closings and mass layoffs.
2103.	Exemptions.
2104.	Administration and enforcement of requirements.
2105.	Procedures in addition to other rights of employees.
2106.	Procedures encouraged where not required.
2107.	Authority to prescribe regulations.
2108.	Effect on other laws.
2109.	Report on employment and international competitiveness.

§ 2101. Definitions; exclusions from definition of loss of employment

(a) Definitions

As used in this chapter—

(1) the term “employer” means any business enterprise that employs—

(A) 100 or more employees, excluding part-time employees; or

(B) 100 or more employees who in the aggregate work at least 4,000 hours per week (exclusive of hours of overtime);

(2) the term “plant closing” means the permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees;